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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,294	08/14/2006	Michel Cornaz	930024-2056	6947
7590	09/17/2009		EXAMINER	
Ronald R. Santucci Frommer Lawrence & Haug 745 Fifth Avenue New York, NY 10151			HARTMANN, GARY S	
			ART UNIT	PAPER NUMBER
			3671	
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			09/17/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/589,294	CORNAZ, MICHEL	
	Examiner	Art Unit	
	Gary Hartmann	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 July 2009.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
 4a) Of the above claim(s) 5-11 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-4 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 14 August 2006 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Invention I in the reply filed on 08 July 2009 is acknowledged. The traversal is on several grounds, particularly that the restriction requirement should have been done earlier in the examination process and that there is no serious burden placed on the examiner. This is not found persuasive because, while the examiner did treat all inventions originally, applicant's arguments are valid for some inventions but not others. The examiner had essentially stated that in view of the product (Invention I), other aspects were within ordinary skill. The arguments against this assertion demonstrate that there are more than one invention. Considering each invention in a completely separate manner is a burden on the examine. As stated in MPEP 811[R-3], the restriction can be made anytime before a final Office action. The timing of this rejection is proper.

The requirement is still deemed proper and is therefore made FINAL.

This application contains claims 5-11 drawn to an invention nonelected with traverse in the reply filed on 08 July 2009. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmussen, (U.S. Patent 4,127,349) in view of Peyton (U.S. Patent 125,482).

Rasmussen discloses a slab having sections (2) divided by a groove (Figures 1-3). The groove defines a breaking line (abstract, for example). The groove has a blunt area and not a point. Peyton teaches a joint having a blunt bottom (Figure 6) to be functional equivalents to a joint having a pointed end (Figure 5). Additionally, Peyton teaches a line (not labeled, but extending from the bottom of the groove to the bottom of the slab). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have configured the groove of Rasmussen with a pointed end and line in order to obtain a joint having a particular appearance (such as a beveled edge) in order to suit a particular application, such as to enable a secure placement with adjacent blocks without allowing relative vertical movement, in accordance with the teaching of Peyton.

Regarding size, it is standard practice in the art to use any size best suited to a particular paving application. For this reason, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used any sizes for Rasmussen.

Response to Arguments

Applicant's arguments filed 05 February 2009 have been considered but are not persuasive. The configuration of the groove ending in a point is normally called a beveled edge. Applicant has not invented this feature, as exemplified by Peyton. Further, as exemplified by Peyton, it is known to include a line extending from the point of the groove to the other side of

the slab. Rasmussen is specifically designed to be broken once in place; thereby meeting recitations of defining a breaking line. Further, Peyton provides specific reasoning for including the line. While Peyton is separate parts, the structure of Peyton could have been unitary (as in Rasmussen) during transportation and broken in place, as is done by Rasmussen. In other words, one skilled in the art could have configured the groove and line of Peyton as the rib (3) of Rasmussen prior to placement (i.e., unitary during transportation) and separated it in situ, as is done with Rasmussen. That the final configuration of Peyton is separate does not mean that its initial, transport state could not have been identical to Rasmussen. Both Rasmussen and Peyton end up in the same, separated state. Peyton clarifies that the blunt versus pointed end is simply a change in shape; i.e., a minor design choice. Each meets the recitation of “define a breaking line” and each of the slabs are allowed to be separated along this line.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 571-272-6989. The examiner can normally be reached on Tuesday through Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary Hartmann/
Primary Examiner, Art Unit 3671